

§ 1081.406

Web site or as otherwise deemed appropriate by the Bureau.

§ 1081.406 Reconsideration.

Within 14 days after service of the Director's final decision and order, any party may file with the Director a petition for reconsideration, briefly and specifically setting forth the relief desired and the grounds in support thereof. Any petition filed under this section must be confined to new questions raised by the final decision or final order and upon which the petitioner had no opportunity to argue, in writing or orally, before the Director. No response to a petition for reconsideration shall be filed unless requested by the Director, who will request such response before granting any petition for reconsideration. The filing of a petition for reconsideration shall not operate to stay the effective date of the final decision or order or to toll the running of any statutory period affecting such decision or order unless specifically so ordered by the Director.

§ 1081.407 Effective date; stays pending judicial review.

(a) Other than consent orders, which shall become effective at the time specified therein, an order to cease and desist or for other affirmative action under section 1053(b) of the Act becomes effective at the expiration of 30 days after the date of service pursuant to § 1081.113(d)(2), unless the Director agrees to stay the effectiveness of the Order pursuant to this section.

(b) Any party subject to a final decision and order, other than a consent order, may apply to the Director for a stay of all or part of that order pending judicial review.

(c) A motion for stay shall state the reasons a stay is warranted and the facts relied upon, and shall include supporting affidavits or other sworn statements, and a copy of the relevant portions of the record. The motion shall address the likelihood of the movant's success on appeal, whether the movant will suffer irreparable harm if a stay is not granted, the degree of injury to other parties if a stay is granted, and why the stay is in the public interest.

(d) A motion for stay shall be filed within 30 days of service of the order

12 CFR Ch. X (1–12 Edition)

on the party. Any party opposing the motion may file a response within five days after receipt of the motion. The movant may file a reply brief, limited to new matters raised by the response, within three days after receipt of the response.

(e) The commencement of proceedings for judicial review of a final decision and order of the Director does not, unless specifically ordered by the Director or a reviewing court, operate as a stay of any order issued by the Director. The Director may, in his or her discretion, and on such terms as he or she finds just, stay the effectiveness of all or any part of an order pending a final decision on a petition for judicial review of that order.

PART 1082—STATE OFFICIAL NOTIFICATION RULES

AUTHORITY: Pub. L. 111–203, Title X.

SOURCE: 76 FR 45175, July 28, 2011, unless otherwise noted.

§ 1082.1 Procedures for notifying the Bureau of Consumer Financial Protection when a state official takes an action to enforce the Consumer Financial Protection Act of 2010.

(a) *Notice requirement.* (1) Pursuant to 12 U.S.C. 5552(b) and except as discussed in paragraph (b) of this section, every State attorney general and State regulator (collectively “State Official”) shall provide the notice described in paragraph (c) of this section to the Division of Enforcement of the Bureau of Consumer Financial Protection (“Bureau”), the division of the Bureau responsible for enforcement of Federal consumer financial law pursuant to the Consumer Financial Protection Act of 2010, as amended, Public Law 111–203 (July 21, 2010), Title X, 12 U.S.C. 5481 *et seq.* (“Act”), and the Office of the Executive Secretary of the Bureau at least 10 days prior to initiating any action or proceeding in any court or other administrative or regulatory proceeding against any covered person to enforce any provision of the Act or any regulation prescribed thereunder, including but not limited to the filing of a complaint, motion for relief, or other document which initiates an action or proceeding.

Bur. of Consumer Financial Protection

§ 1082.1

(2) Notice shall be provided to the Division of Enforcement and the Office of the Executive Secretary, or their successor offices, via electronic mail to *Enforcement@cfpb.gov* and *ExecSec@cfpb.gov*. In the event of technical problems preventing the delivery of notice, the Division of Enforcement or its successor entity should be contacted.

(3) On the same date that notice is provided to the Division of Enforcement and the Office of the Executive Secretary pursuant to paragraph (a)(1) of this section, a copy of the notice shall be sent to the relevant prudential regulator, if any, or the designee thereof, by mail or electronic mail.

(4) Notice shall be deemed to have been provided as of the date of mailing the materials described in paragraph (c) of this section.

(5) The Division of Enforcement, or its successor entity, in consultation with a State Official, may provide, for good cause shown, an alternative deadline for the notice described in paragraph (a)(1) of this section.

(b) *Emergency actions.* (1) Pursuant to 12 U.S.C. 5552(b), in the event that a State Official initiates or intends to initiate an action or proceeding and, in order to protect the public interest or prevent irreparable and imminent harm, is unable to provide timely notice as described in paragraph (a) of this section, the State Official shall provide the notice described in paragraph (c) of this section as soon as is practicable and not later than 48 hours after initiation of the action or proceeding.

(2) Notice shall be provided in accordance with the procedures set forth in paragraphs (a)(2) through (a)(4) of this section.

(3) The Division of Enforcement, or its successor entity, in consultation with a State Official, may provide, for good cause shown, an alternative deadline for the notice described in paragraph (b)(1) of this section.

(c) *Contents of notice.* (1) Pursuant to 12 U.S.C. 5552(b), the notice required under paragraphs (a) and (b) of this section shall include a written description of the anticipated action or proceeding, including:

(i) The court or body in which the action or proceeding is to be initiated;

(ii) The identity of the parties to the action or proceeding;

(iii) The nature of the action or proceeding to be initiated;

(iv) The anticipated date of initiating the action or proceeding;

(v) The alleged facts underlying the action or proceeding;

(vi) A contact name, electronic mail address, and phone number of an individual involved with the matter in the office of the State Official with whom the Bureau may consult; and

(vii) A determination as to whether there may be a need to coordinate the prosecution of the action or proceeding so as not to interfere with any action, including any rulemaking, undertaken by the Bureau, a prudential regulator, or another Federal agency.

(2) The notice required under paragraphs (a) and (b) of this section shall further include a complete and unredacted copy of any complaint, motion for relief, or similar document that is the subject of the notice, in its form as of the date the notice is provided. To the extent the complaint, motion for relief, or similar document contains the information described in paragraph (c)(1) of this section, provision of the complaint, motion for relief, or similar document shall be deemed sufficient notice of that information.

(3) In the event that notice is provided after the initiation of an action or proceeding, the written description shall also include the following, in addition to the information described in paragraph (c)(1) of this section:

(i) A brief description of any proceeding that occurred as a result of the initiation of the action or proceeding, including any orders issued by a court or other body;

(ii) Any case number, matter number, or designation assigned to the action or proceeding; and

(iii) Information on scheduled court or other administrative or regulatory proceedings.

(4) In the event that notice is provided after the initiation of an action or proceeding, in addition to the requirements set forth in paragraph (c)(3) of this section, the notice shall further

include a complete, unredacted copy of any document filed by any party in relation to the action or proceeding and any orders issued by the court or other body.

(5) If the State Official, after providing the notice described in paragraphs (c)(1) and (c)(2) of this section, intends to file a complaint, motion for relief, or similar document that is materially different from the document included with the notice, the State Official shall provide a copy of that document prior to filing, in accordance with the method described in paragraph (a)(2) of this section.

(d) *Bureau response.* In any action or proceeding described in paragraphs (a) and (b) of this section, the Bureau may:

(1) Intervene in the action or proceeding as a party;

(2) Upon intervening,

(i) Remove the action to the appropriate United States district court, if the action or proceeding was not originally brought there; and

(ii) Be heard on all matters arising in the action;

(3) Appeal any order or judgment, to the same extent as any other party in the proceeding may; and

(4) Otherwise participate in the action as appropriate.

(e) *Confidentiality and privilege.* (1) Unless and until such information becomes publically available, the substance and fact of the notice described in paragraph (c) of this section, including the complaint, motion for relief, or other document, shall not be disclosed by the Bureau or any relevant prudential regulator who received the notice except as permitted by paragraphs

(e)(3) and (e)(4) of this section or as required by law.

(2) Provision of notice by a State Official and disclosure of notice pursuant to paragraphs (e)(3) and (e)(4) of this section shall not be deemed a waiver of any applicable privilege.

(3) Notwithstanding paragraph (e)(1) of this section, the Bureau and any relevant prudential regulator who received the notice described in paragraph (c) of this section may share the substance or fact of the notice with another entity pursuant to the consent of the State Official who provided the notice.

(4) Notwithstanding paragraphs (e)(1) and (e)(3) of this section, the Bureau may share the substance and fact of the notice described in paragraph (c) of this section with another state or federal government entity when necessary to protect the public interest, after consultation with the State Official who provided the notice.

(f) *No private right of action or defense.* The requirements set forth in this section are not intended to, do not, and may not be relied upon to create any right, benefit, or defense, substantive or procedural, enforceable at law by a party against the United States or any State enforcing the provisions of the Act or any regulation prescribed thereunder.

Enterprise's board of directors and management are, in fact, applied in the normal course of business. As reflected in the Policy Guidance, the Enterprises are, at a minimum, expected to adopt appropriate policies and internal guidelines, and to put in place procedures to ensure they are followed as a matter of routine.